

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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MCKINLEY WEST,

Petitioner,

-v.-

9:06-CV-0158  
(LEK/GJD)

CHRISTOPHER ARTUS,

Respondent.

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APPEARANCES:

OF COUNSEL:

MCKINLEY WEST  
Petitioner, *pro Se*  
01-B-0185

HON. ANDREW M. CUOMO  
Office of the Attorney General  
120 Broadway  
New York, NY 10271

CHELSEA H. CHAFFEE, ESQ.

LAWRENCE E. KAHN, U.S. DISTRICT JUDGE

**ORDER**

The Clerk has sent to the Court a request for McKinley West ("petitioner" or "West") to withdraw the ineffective assistance of counsel claim that is presently part of his habeas petition. Letter Request (Dkt. No. 13). Respondent Christopher Artus takes no position on this request. Letter Response (Dkt. No. 14).

Upon reading petitioner's request, it is not clear to the Court that petitioner understands that withdrawing this claim may result in the ***permanent*** and ***complete*** abandonment of the claim because it will likely be time barred in any subsequent action. In the interest of ensuring that petitioner understands the ramifications of his request, he will be required to file a statement with this Court, as described below. Upon filing of that statement, petitioner's request will be granted.

WHEREFORE, it is hereby

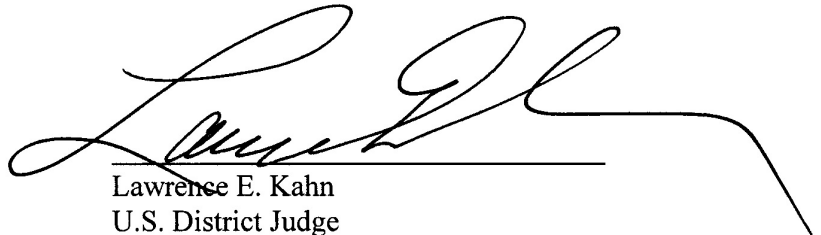
**ORDERED**, that in the event petitioner desires to **permanently** and **completely** abandon his claim for ineffective assistance of trial counsel, he shall file a sworn and notarized statement with this Court that states that he has read and understands this Order and that he seeks dismissal of the ineffective assistance of counsel claim. **Any such request must also state that petitioner understands that any subsequent habeas petition attempting to re-assert his ineffective assistance of counsel claim will likely be barred by the statute of limitations**; and it is further

**ORDERED**, that petitioner shall file any such statement within **THIRTY (30)** **DAYS** from the filing date of this Order. Upon filing of such a statement, petitioner's request (Dkt. No. 13) will be granted. If petitioner fails to file such a statement, this action will proceed on the petition presently pending before this Court; and it is further

**ORDERED**, that the Clerk serve a copy of this Order on the parties.

**IT IS SO ORDERED.**

DATED: September 05, 2007  
Albany, New York

  
Lawrence E. Kahn  
U.S. District Judge